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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Gerald W. FISCHER

Serial No: 10/601,171

Art Unit: 1616

Filing Date: June 23, 2003

Examiner: To be assigned

For: OPSONIC AND PROTECTIVE  
MONOCLONAL AND CHIMERIC  
ANTIBODIES SPECIFIC FOR  
LIPOTEICHOIC ACID OF GRAM POSITIVE  
BACTERIA

Attorney Docket No.: 103901-4197

**SUBMISSION OF REVOCATION AND POWER OF ATTORNEY UNDER 37 C.F.R. § 3.71**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Submitted herewith is the executed Revocation and Power of Attorney for the above-identified application.

Additionally, please update the Attorney Docket Number to the number noted in the caption above.

No fee is believed to be due for this submission. Please charge any required fees to Winston & Strawn LLP Deposit Account No. 50-1814.

Respectfully submitted,

Sept. 2, 2004  
Date

Jeffrey A. Wolfson  
Jeffrey A. Wolfson (Reg. No. 42,234)

**WINSTON & STRAWN LLP**  
Customer No. 28765

202-371-5770



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Gerald W. FISCHER

Serial No:	10/601,171	Art Unit:	1616
Filing Date:	June 23, 2003	Examiner:	To be assigned
For:	OPSONIC AND PROTECTIVE MONOCLONAL AND CHIMERIC ANTIBODIES SPECIFIC FOR LIPOTEICHOIC ACID OF GRAM POSITIVE BACTERIA		
	Attorney Docket No.: 103901-4197		

**REVOCATION AND POWER OF ATTORNEY UNDER 37 C.F.R. § 3.71**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The undersigned assignee of the entire interest in the above-identified subject application hereby revokes all previous powers and appoints Allan A. Fanucci (Reg. No. 30,256), Daniel J. Hulseberg (Reg. No. 36,554), and Jeffrey A. Wolfson (Reg. No. 42,234) of WINSTON & STRAWN LLP (Customer No. 28765) to prosecute this application and to transact all business in the United States Patent and Trademark Office connected therewith.

Please direct all correspondence for this application to Customer No. 28765 to the attention of the Patent Department (telephone 202-371-5904, facsimile 202-371-5950).

Assignments of the entire interest in the subject application were recorded on January 8, 2001 at Reel 011412, Frame 0614 from Gerald W. Fischer and Richard F. Schuman to the Henry M. Jackson Foundation for the Advancement of Military Medicine; and at Reel 011412, Frame 0597 from Hing Wong and Jeffrey R. Stinson to Sunol Molecular Corporation. A license from assignee(s) to licensee was granted authorizing licensee to control the prosecution or take any other appropriate action in this patent or patent application. A redacted copy of this license agreement, dated May 24, 1999, is submitted herewith.

The undersigned has reviewed the assignment and/or license(s), and, to the best of his/her knowledge, title is in the assignee and/or licensee seeking to take action in this application and that he/she is empowered to act on its behalf.

LICENSEE: BIOSYNEXUS INCORPORATED

Signature:

Date of Signature:

Typed Name:

Position/Title:

Address:

Gerald W. Fischer, M.D.

President and CEO

9298 Gaither Road

Gaithersburg, Maryland 20877

## LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "Agreement") is made and entered into effective for all purposes and in all respects as of the 24<sup>th</sup> day of May, 1999 (the "Effective Date"), by and among (i) HENRY M. JACKSON FOUNDATION FOR THE ADVANCEMENT OF MILITARY MEDICINE ("Foundation"), a tax-exempt Maryland corporation, (ii) SUNOL MOLECULAR CORPORATION ("Sunol"), a Delaware corporation, and (iii) BIOSYNEXUS INCORPORATED ("Biosynexus"), a Delaware corporation.

6. **PATENT FILING, MAINTENANCE AND ABANDONMENT.**

6.1. Beginning with the Effective Date, Biosynexus, at its own expense, shall prepare, file, prosecute and maintain U.S. and foreign patent applications and patents for the exclusively licensed Licensed Patent Rights (as referenced in Exhibits A-1, B and C-1), and as a result, Biosynexus shall have control over such exclusively licensed Licensed Patent Rights. Biosynexus shall consult with the respective licensor (Foundation, SJ Group or Sunol, as the case may be) with respect to such preparation, filing, prosecution and maintenance to the extent such consultation is reasonably practical (but in all events Biosynexus shall notify the appropriate licensor of such preparation, filing, prosecution and maintenance). The Foundation and Sunol, as applicable, will pay the cost of preparing, filing, prosecuting and maintaining U.S. and foreign patent applications and patents for, and thus will have control over such non-exclusively licensed Foundation Patents Rights and Sunol Patent Rights (as referenced in Exhibits A-2 and C-2) for the three (3) year period commencing as of the Effective Date. The parties hereto agree to cooperate in the preparation and execution (or cause their authorized agents to prepare and execute) all documents, instruments or other agreements reasonably necessary to enable the responsible party to apply for, to prosecute and to maintain the Licensed Patent Rights. Foundation, the SJ Group and Sunol, respectively, shall provide to Biosynexus, and Biosynexus shall reciprocally provide such parties with prompt written notice as to all matters which come to its attention and which may affect the preparation, filing, prosecution or maintenance of any such Licensed Patent Rights.

IN WITNESS WHEREOF, the parties hereto have executed this License Agreement as of the date first above written.

ATTEST:

*Reverend Shastford*

HENRY M. JACKSON FOUNDATION FOR  
THE ADVANCEMENT OF MILITARY  
MEDICINE, a tax-exempt Maryland corporation

By: *John W. Lowe*  
Name: John W. Lowe  
Title: President

ATTEST:

*Benny H. Wong*

SUNOL MOLECULAR CORPORATION, a  
Delaware corporation

By: *Wing C. Wong*  
Name: Wing C. Wong  
Title: President & CEO

ATTEST:

*Krista M. Darnell*

BIOSYNEXUS INCORPORATED, a Delaware  
corporation

By: *Gerald W. Fischer*  
Name: Gerald W. Fischer  
Title: President and CEO

**EXHIBIT A-1**  
**TO**  
**LICENSE AGREEMENT**

**Foundation Patent Rights - Exclusive License**

**DIRECTED HUMAN IMMUNE GLOBULIN**

**Serial Number 08/458,418 (18-01)**

**Serial Number 08/459,164 (18-03)**

**Serial Number 08/460,622 (18-04)**

**Related Foreign Patents and Applications**

**Serial Number 32718/93 Australia**

**Serial number 2,117,480 Canada**

**Serial Number 93910435.3 European Patent Office**

**Serial Number 5-514800 Japan**

**BROADLY REACTIVE OPSONIC ANTIBODY**

**U.S. Patent No. 5,971,511 (02-05)**

**Serial Number 08/458,414 (19-01)**

**Related Foreign Patents and Applications**

**Serial Number 2,132,421 Canada**

**Serial Number 93907460.5 European Patent Office**

**Serial Number 105119 Israel**

**Serial Number 5-516636 Japan**

**Serial Number 45928 Phillippines**

**Serial Number 93/1969 South Africa**

## IN VITRO METHODS

Serial Number 08/466,059 (20-02) – InVitro Methods for Identifying Pathogenic Staphylococcus, for Identifying Immunoglobulin Useful for the Treatment of Pathogenic Staphylococcus Infections and In Vitro Methods for Employing Such Immunoglobulin

Gerald W. Fischer (VSI)

New application filed on 6/6/96; initial patent application filed on 10/22/90 (which was abandoned)

This patent application describes staphylococcal antigens that induce broadly reactive opsonic antibodies to both coagulase positive and negative staphylococci. Claims for such antigens may be useful in diagnostics and of value in vaccine constructs.

### Related Foreign Patents and Applications

#### SURFACE PROTEINS

Serial Number 08/472,715 (21-01)

Serial Number 08/471,285 (21-03)

### Related Foreign Patents and Applications

Serial Number 36371/95 Australia

Serial Number 2,200691 Canada

Serial Number 95933880.7 European Patent Office

Serial Number 8-511066 Japan

With respect to the Foundation Licensed Technology listed on Exhibit A-2, an exclusive worldwide right and license is granted that is limited to the field of the prevention and treatment of staphylococcal infections.

**EXHIBIT A-2**  
**TO**  
**LICENSE AGREEMENT**

**Foundation Patent Rights Licensed on a Non-Exclusive Basis**

*Dual Carrier Immunogenic Constructs*

Dr. James J. Mond and Andrew Lees

U.S. Application filed 2/10/93; Parent Application filed 2/11/92, Issued claims.

*Activation and Derivatization of Soluble Polymers Using Cyano-Transfer Reagents*

Dr. Andrew Lees

Patent disclosure 6/22/93

*Producing Immunogenic Constructs Using Soluble Carbohydrates Activated Via Organic Cyanylating Reagents*

Dr. Andrew Lees

Patent filed 9/22/93; C.I.P. Application filed 3/22/95 Issued claims. U.S. Patent #5,651,971, issued July 29, 1997.

*Method of Activating Soluble Carbohydrate Using Novel Cyanylating Reagents for the Production of Immunogenic Constructs*

Dr. Andrew Lees

Patent filed 6/27/95

*Process for Preparing Conjugate Vaccines Including Free Protein and the Conjugate Vaccines, Immunogens and Immunogenic Reagents produced by this Process*

Dr. Andrew Lees and James Mond

Patent filed 1/8/97

*Coupling of Unmodified Proteins to Haloacyl or Dihaloacyl Derivatized Polysaccharides for the Preparation of Protein-Polysaccharide Vaccines*

Dr. Andrew Lees

Patent filed 4/24/97



**EXHIBIT B**  
**TO**  
**LICENSE AGREEMENT**

**SJ Group Patent Rights - Exclusive License**

*Opsonic and Protective Monoclonal and Chimeric Antibodies Specific Lipoteichoic Acid of Gram Positive Bacteria*

Fischer, Schuman, Wong, Stinson, VSI and Sunol

Filed June 16, 1997; Serial #60/049,871

This application describes a monoclonal antibody (MAB) that is directed against LTA and provides enhanced protection passively for S. aureus and S. epidermidis in animals. Thus epitopes on LTA may induce protection against staphylococci. In addition this MAB binds to other gram positives such as group A streptococcus and enterococcus. The peptide mimic that binds to this MAB is claimed. Peptide mimics of LTA could be very useful for development of vaccines to gram positive bacteria, since LTA is considered a key component for binding of gram-positive bacteria to epithelial cells. Foundation owns a fifty percent (50%) interest in this technology.

**EXHIBIT C-1**  
**TO**  
**LICENSE AGREEMENT**

**SUNOL Patent Rights - Exclusive License**

**Exclusive basis:**

A human single-chain antibody library consisting of the following: the specific collection of filamentous phages carrying human single-chain antibody fragments that were constructed with RNAs derived from the human spleen cells provided by the Uniformed Services University of the Health Sciences. This collections of phages was used in an in-vitro panning protocol to successfully isolate single-chain antibody fragments recognizing staphylococcal antigens.

**EXHIBIT C-2**  
**TO**  
**LICENSE AGREEMENT**

**SUNOL Patent Rights Licensed on a Non-Exclusive Basis**

Non-exclusive basis (an exclusive worldwide right and license is granted that is limited to the field of the prevention and treatment of staphylococcal infections):

1. Method Involving Display of Protein Binding Pairs on the Surface of Bacterial Pili and Bacteriophage US Patent #5,516,637
2. Methods for Peptide Synthesis and Purification US Patent #5,763,284
3. Peptide Synthesis and Purification by Fusion to PenI Protein or Precipitation Effective Portion Thereof US Patent # 5,888,775
4. Methods of Making Recombinant Cells USSN 09/204,979